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MEMORANDUM

TO: Central Office, Regional Centers and District Officers

FROM: Kathi K. Lacy *Kathi K. Lacy*
Associate State Director, Policy

RE: 406-03-DD Directive

DATE: January 21, 2010

Attached is the SC Department of Disabilities and Special Needs' Reduction in Force Policy. This policy has been updated to comply with changes made to State human resources regulations, and has been reviewed and approved by the Office of Human Resources, Budget & Control Board with an effective date of November 1, 2009. Please reference the table below for the number, name and status of the directive which is now published on DDSN's website at www.ddsn.sc.gov.

Reference #	Directive Title	Status	Applicability
406-03-DD	Reduction in Force Policy	Revision	All SCDDSN Covered Employees

If you have questions or need additional information, please call 803-898-9612.

DBS/mla

DISTRICT I

P.O. Box 239
Clinton, SC 29325-5328
Phone: (864) 938-3497

Midlands Center - Phone: 803/935-7500
Whitten Center - Phone: 864/833-2733

DISTRICT II

9995 Miles Jamison Road
Summerville, SC 29485
Phone: 843/832-5576

Coastal Center - Phone: 843/873-5750
Pee Dee Center - Phone: 843/664-2600
Saleeby Center - Phone: 843/332-4104

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Reference Number:	406-03-DD
Title of Document:	Reduction-In-Force Policy
Date of Issue:	October 21, 1991
Effective Date:	October 21, 1991
Last Review Date:	November 1, 2009
Date of Last Revision:	November 1, 2009 Revised
Applicability:	All SCDDSN Covered Employees

THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE SC DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS (SCDDSN). THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE SCDDSN RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS POLICY, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

Purpose

The purpose of this policy is to prescribe the manner in which covered employees within the Department of Disabilities and Special Needs are released in an equitable manner should a reduction in force become necessary. A reduction in force may require the separation, involuntary demotion, reassignment, or reduction in work hours of SCDDSN's covered employees. A reduction in force does not apply to non-covered employees (e.g., probationary employees, temporary employees, temporary grant employees, time-limited project employees, research grant employees and employees exempt from the State Employee Grievance Procedures Act).

The needs of the individuals and consumers served by the Department of Disabilities and Special Needs will be the controlling factor in decisions and actions taken to effect a reduction in force. Reduction in force may be necessary because of conditions within or outside the agency.

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The agency may implement a reduction in force for one or more of the following four reasons:

1. Reorganization;
2. Work Shortage;
3. Loss of Funding; or
4. Outsourcing/Privatization.

These factors, occurring singly or in combination, may make it necessary for the Department to implement a reduction in force. Depending on the cause, a reduction in force may be temporary or permanent.

Reduction in force may require the separation of all employees of a program or service, or employees in part of a program or service; or may require separation of some and the reassignment, demotion, or reduction of hours of others.

Management Responsibilities

The Department of Disabilities and Special Needs is entrusted with the responsibility for accomplishing stated objectives within the available resources. Management responsibilities include determination of positions required; where positions are located; and which positions are to be filled, abolished or vacated. Prior to implementing a reduction-in-force, SCDDSN will attempt to reassign employees to unaffected areas if possible. SCDDSN shall determine the following items prior to developing the reduction in force plan:

1. The reason for the reduction-in-force;
2. The area(s) of the agency that are to be impacted by the reduction in force [Competitive Area(s)];
3. The State Classification Title(s) within the competitive area(s) to be affected [Competitive Group(s)];
4. The number of positions in each State Classification Title(s) to be eliminated.

Competitive Area(s)

The State Director of Disabilities and Special Needs will determine the competitive area(s) the reduction in force will impact. This competitive area may be an entire district or region, a regional facility, a program area, or service area within a region. However, the competitive area may be established as a more restricted area, where the staff in that area is separately organized and clearly distinguishable from the staff in other areas, and where interchange of employees of the classifications involved would not be practical.

Competitive Group(s)

SCDDSN will determine the competitive group(s) based on the State classification title(s) within the competitive area(s) that the reduction in force will affect. If the reduction in force is to apply to more than one State classification title, each State class shall be treated as a separate

competitive group, except where reductions are to be made in a State classification title series (e.g. LPN I, LPN II); or in State classification titles that are part of the agency's customary career path (e.g. LPN I, LPN II, RN I, RN II).

Position Identification

SCDDSN shall identify the positions within the competitive area(s) and competitive group(s) by identifying the following information:

1. State Classification Title;
2. State Classification Code;
3. Pay Band, if applicable;
4. Total number of positions in the State Classification Title within the competitive area;
and
5. Total number of positions in the State Classification Title within the competitive area to be eliminated.

Retention Points

SCDDSN will calculate retention points for covered employees in the competitive area(s) and competitive group(s) to determine which covered employees will be involuntarily demoted, reassigned, have reduced hours, or be separated from employment. Retention point calculation will be based upon the covered employees' two most recent annual performance appraisals and the length of continuous service with the State. The sum of the points assigned for performance and for length of continuous State services are the total retention points that a covered employee uses in the competition.

A. Performance Appraisal Points

SCDDSN will determine the total score for an annual performance appraisal by using the following numerical values assigned to the EPMS performance ratings. The table below is used for those employees receiving evaluations prior to the effective date of this policy.

Substantially Exceeds Performance Requirements	3
Exceeds Performance Requirements	2
Meets Performance Requirements	1
Below Performance Requirements	0

Any evaluations completed after the effective date of this policy will use the following points.

<i>Performance Rating</i>	<i>Point Value</i>
Exceptional (Substantially Exceeds/Exceeds)* Performance	3 Points
Successful (Meets)* Performance	1 Points
Unsuccessful (Below)* Performance	0 Points

The point values for each rating will be computed using the rating scale that was in place at the time of the specific EPMS evaluation.

SCDDSN will recognize the performance ratings as follows for current state employees transferring to this agency for reviews conducted on or after the effective date of this policy:

- Substantially Exceeds Requirements and Exceed Requirements = Exceptional
- Meets Performance Requirements = Successful
- Below Performance Requirements = Unsuccessful

For any year in which the employee does not receive an actual evaluation with a rating, the employee will receive a Successful rating for that year; however, if in the previous year the employee received a higher than Successful rating the employee will receive the points for the higher rating.

B. Continuous State Service Points

Covered employees will receive one (1) point for each full year (or major fraction thereof) of continuous State service, after completion of a 12-month probationary period. Continuous State service equal to six (6) months or more will be considered as one year; and less than six (6) months of services will receive no retention points.

C. Exception to Procedure for Retention Point Calculation

If every position in the competitive area is being eliminated, DDSN is not required to calculate retention points. For positions reestablished within one year of the RIF, in the same competitive area and in the same State classification title, the agency must calculate retention points at the time of recall or reinstatement. The agency must calculate retention points using continuous State service and performance appraisal points based on the effective date of the reduction in force.

Sequence for Reduction in Force

1. The order of the reduction in force of covered employees in each State classification shall be governed solely by the accumulation of total retention points except as provided in part 2 below.
2. If two (2) or more of the affected employees have the same number of retention points in the order of reduction in force, and one or more but not all employees so tied for positions are to be considered for reduction in force, the date of hire with the Department of Disabilities and Special Needs will determine the order of the employees affected; the most recent hire being separated, reassigned or demoted first.

If after using the DDSN hire date to determine the order of affected employees a retention points tie still exists, the agency will place the names of those employees with whom the tie exists in a hat. The name(s) drawn from the hat will be retained.

3. Bumping rights are provided for covered employees who have accumulated more retention points than those with whom they are competing. Under no circumstances can an employee gain from a reduction in force. Bumping rights are provided only downward.

Retention of Necessary Qualifications

No employee shall be retained in preference to another employee in a competitive area and competitive group who has a higher number of retention points, except when the agency determines that a Retention of Necessary Qualification applies.

If the position of an employee is not to be abolished and the SC Department of Disabilities and Special Needs (SCDDSN) asserts that an employee with higher retention points who has rights to be placed in that position cannot satisfactorily perform the duties of the position after a reasonable training period, the employee with lower retention points may be retained in preference to the employee with higher retention points.

SCDDSN may make the determination that the employee with higher retention points will not be able, after a reasonable training period, to satisfactorily perform the duties of the job based on a lack of knowledge, abilities, skills, supervisory status, or necessary experience.

When a Retention of Necessary Qualifications is used in a reduction in force plan, a statement of facts must be made and approved by the State Director of SCDDSN prior to submitting the reduction in force plan to the Budget and Control Board's Office of Human Resources (OHR) for review and approval for procedural correctness. SCDDSN will retain documentation to support any retention made on this basis.

WRITING THE REDUCTION IN FORCE PLAN:

Once the State Director of the SC Department of Disabilities and Special Needs has made the decisions outlined above and prior to the implementation of a reduction in force, the State Director or his designee shall develop the reduction in force plan. This plan must include the following:

1. The reason for the reduction in force.
2. The identification of the competitive area(s).
3. The identification of the competitive group(s) [State Classification Title(s)].
4. The number of position(s) to be eliminated in each State Classification Title.

5. A list of the covered employees, in order of retention points, in the competitive area(s) and competitive group(s) to include the following:
 - a. Name;
 - b. Age, race, gender; and
 - c. The computation of retention points;
6. Justification of an Retention of Necessary Qualifications used in the reduction in force plan; and
7. SCDDSN's efforts to assist employees affected by the reduction in force.

The plan will explain the order in which employees are to be affected by the Reduction in Force. The plan will include the statement that employees who are affected by the Reduction in Force shall retain rights to recall and reinstatement for a period of one (1) year from the date of separation; shall have all benefits restored including sick leave and the option of buying back all, some, or no annual leave; and shall be reinstated in inverse order to the order of layoff.

APPROVAL PROCESS

The State Director of Disabilities and Special Needs may eliminate a position(s) whenever it is deemed necessary by reason of reorganization, work shortages, outsourcing/privatization or loss of funding.

When it becomes necessary to implement a reduction in force, a formal directive to implement a reduction in force plan will be issued by the State Director of Disabilities and Special Needs after consideration of input from Associate State Directors, District Directors, Facility Administrators and other key staff. Once the reduction in force plan has been completed, SCDDSN shall submit the following information to the Office of Human Resources for review and approval for procedural correctness:

1. The reduction in force plan as outlined in "Writing the Reduction in Force Plan" section above;
2. An organizational chart including each position (designated with the State classification title and incumbent's name) within the competitive area(s);
3. A copy of SCDDSN's reduction in force policy; and
4. A sample letter to employees affected by the reduction in force including information as outlined in the "Implementation and Communication of the Reduction in Force" section below, along with:
 - a. A list of the employees' recall and reinstatement rights;
 - b. The procedure for the recall of an employee; and
 - c. The employees' grievance rights.

IMPLEMENTATION AND COMMUNICATION OF THE REDUCTION IN FORCE:

Before a reduction-in-force occurs and after OHR has approved the plan for procedural correctness, affected employees will be informed orally and in writing on several matters. A representative from the Human Resources office or the employee's supervisor will meet with each employee individually as soon as possible to explain the reduction in force and answer questions. The following topics will be covered.

1. The reason for the reduction in force;
2. The competitive area(s) and competitive group(s) in which the employee competed.
3. Explanation of the retention point calculation;
4. Explanation that when a covered employee is assigned lower level responsibilities or demoted as a result of a reduction in force implemented due to budgetary reductions or loss of funding, the employee's salary may be reduced on the effective date of the reduction in force. The State Director or his designee, at his discretion, may reduce the employee's salary between 0 percent and 15 percent below the employee's current salary; or he may reduce it to an amount between the employee's current salary and the midpoint of the lower pay band. In exercising this discretion, the State Director or designee, may use the option which results in the greatest cost savings;
5. The date the reduction in force will be effective;
6. Benefits to which affected employees are entitled (e.g., last paycheck, unemployment benefits, and insurance coverage, etc.), and the manner in which the RIF will affect the employees' State benefits;
7. Whether reduction will be permanent or temporary. If temporary, the agency will give the best estimate for the duration of the layoff;
8. The employee's reinstatement rights, (e.g., reinstatement of all sick leave; the option of buying back all, some or none of the annual leave at the rate at which it was paid out);
9. The employee's recall rights to any position, within the competitive area, that becomes available in the same State classification title as the position the employee held prior to the reduction in force;
10. Explanation that SCDDSN will notify the employee in writing of any such vacancies;
11. The requirements of SC Code of Laws Ann. § 8-11-185, which requires SCDDSN to report information about the separated employees in a reduction in force to the Office of Human Resources;
12. Specification that certain employees are exempt from the State Employee Grievance Procedure Act;
13. The specification that the Reduction in Force Plan (except retention points) is available for review.

RECALL AND REINSTATEMENT RIGHTS

An employee affected by a reduction in force has recall and reinstatement rights to a position in State Government for one (1) year after the effective date of the reduction in force.

A. Recall Rights

If a vacancy occurs within the competitive area which is in the same State classification title as the position the employee held prior to the reduction in force, SCDDSN will recall employees in the inverse order of the reduction in force. SCDDSN will notify the employees in writing of the job offer and recall rights. If the employee does not accept the job offer within ten (10) days, the employee's recall rights are waived. Should the employee accept the job offer, SCDDSN will reinstate the employee's accumulated sick leave, and will provide the employee the option of buying back all, some, or none of his/her annual leave at the rate it was paid out at the time of the separation. Upon returning to employment in an insurance eligible Full Time Equivalent (FTE) position, the employee will also be offered insurance benefits as a new hire. The recalled employee may purchase retirement service credit under the leave of absence provision in Section 9-1-1140(D). When an employee is recalled, the time will not be considered as punitive in the determination of retiree insurance eligibility.

B. Reinstatement Rights

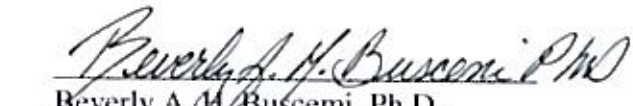
An employee separated by a reduction in force may apply for any State job for which he/she meets the minimum training and experience requirements. Should the separated employee accept a job offer for a Full-Time Equivalent (FTE) position, the agency will reinstate the employee's accumulated sick leave, and will provide the employee the option of buying back all, some, or none of his/her annual leave at the rate it was paid out at the time of separation. Upon returning to employment in an insurance benefits-eligible FTE position, the employee will also be offered insurance benefits as a new hire. The reinstated employee may purchase retirement service credit under the leave of absence provision in Section 9-1140(D) for the period of time that the employee was not employed by State government at the cost specified in Section 9-1140(D). When an employee is reinstated, this time will not be considered as punitive in the determination of retiree insurance eligibility.

GRIEVANCE RIGHTS

A covered employee who is affected by a reduction in force has the right to file a grievance through the Department's Grievance Procedure and appeal to the State Employee Grievance Committee only if the grievance or appeal is based on inconsistent or improper application of the Reduction in Force Policy or Plan.


Deirdre Blake Sayers, MHA
DDSN Director of Human Resources

(Originator)


Beverly A. Buscemi, Ph.D.
State Director

(Approved)

MARK SANFORD, CHAIRMAN
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CONVERSE A. CHELLIS, III, CPA
STATE TREASURER

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January 6, 2009

Ms. Deirdre Blake-Sayers, Director
Human Resources
SC Department of Disabilities and Special Needs
3440 Harden St. Extension
Columbia, SC 29203

Dear Ms. Blake-Sayers:

The revised Reduction-in-Force policy submitted to our office has been approved and is enclosed for your files. This revised policy becomes effective only after covered employees receive actual notice of the revisions, including a date for implementation.

Should you determine that further revisions are necessary, please submit them to our office for review and approval as required by statute.

Please contact me if I can be of further assistance.

Sincerely,

Kevin Paul
Senior Consultant

KP/lvr

Enclosure